

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6479 of 2020

Arising Out of PS. Case No.-476 Year-2019 Thana- SIWAN MUFFASIL District- Siwan

1. BHOLU KUMAR Son of Sanjay Kumar Gupta Resident of Village- Kasera Toli, P.S.- Siwan Town, District- Siwan.
2. Suraj Kharwar Son of Laxman Prasad Resident of Village- Kasera Toli, P.S.- Siwan Town, District- Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajay Kumar Tiwary

For the Opposite Party/s : Mr.Anita Kumari

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 11-06-2020 The matter has been taken up through virtual court proceeding.

Heard learned counsel for the petitioner and the State.

The petitioner, who is languishing in custody since 17.12.2019, has preferred the present application for grant of bail in a case registered for the offences punishable under Sections 272, 273, 467, 468, 471 and 120B/34 of the IPC and Sections 30(a) and 41(i) of the Bihar Prohibition and Excise Act, 2016, as amended by Amendment Act 8 of 2018.

It appears that a Co-ordinate bench of this Court, vide order dated 04.02.2020, called for the case diary of Siwan Muffasil (Mahadeva) P.S. Case No. 476 of 2019. More than four



months have lapsed, but the same has not been received as yet and due to present pandemic, Covid-19, there is no likelihood of the same being received in near future, hence the matter is being heard on merit without case diary.

As per the prosecution case, 5339.520 litres of Indian Made Foreign Liquor were recovered from a truck when co-accused Sakir Ali Khan was apprehended. The name of the petitioner sprang up on the basis of statement given by the apprehended co-accused, as a person who used to unload the consignment of liquor from the truck.

It is submitted by learned counsel for the petitioner that recovery has not been made from the conscious physical possession of the petitioner and the petitioner was not apprehended from the place of seizure. The investigation has already been concluded. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent. Moreover, the petitioner is not the owner of the truck in question, statement to that effect has been made in paragraph no. 8 of the petition which reads as follows:-

“That on bare perusal of the seizure list it is evident that the alleged 5339.520 ltr foreign liquor was recovered from the truck and recovered liquor and truck are not belongs to the petitioners.”

Learned APP submits that the name of the petitioner



sprang up on the confession of apprehended co-accused.

Considering the fact that the investigation has already been concluded, period under custody and petitioner is not having any criminal antecedent, coupled with the fact that the petitioner is not the owner of the alleged truck, let the petitioner above named be released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned Additional Sessions Judge-2nd-cum-Special Judge, Excise, Siwan in connection with Siwan Muffasil (Mahadeva) P.S. Case No. 476 of 2019.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties including one surety given at the time of provisional bail of the like amount each to the satisfaction of Additional Sessions Judge-2nd-cum-Special Judge, Excise, Siwan in



connection with Siwan Muffasil (Mahadeva) P.S. Case No. 476
of 2019.

The learned Court below will be at liberty to extend
the period of provisional bail further if the court proceeding in
physical mode will not resume in next three months.

(Dinesh Kumar Singh, J)

Amrendra/-

U		T	
---	--	---	--

